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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,457	10/02/2003	Kirk Sawall	D5-047-06-US	8499

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NORTH OAKS PATENT AGENCY
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EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT PAPER NUMBER

3653

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/677,457	Applicant(s) SAWALL ET AL.	
Examiner Joseph C. Rodriguez	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 6-31,55 and 56 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 6-27,29-31,55 and 56 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 October 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. 09/936,718.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-8, 10, 12-16, 18, 21, 23-27, 29-31 and 55-56 are rejected under 35 U.S.C. 102(b) as being anticipated Lehmann et al. ("Lehmann")(EP 167999 A2).

Regarding claims 6, 8, 10, 12, 14-16 and 24-27, these claims are anticipated by figure 3 and by Lehmann's teaching that profile sections can be made instead as peg sections (p. 3, Translation, NPL, 8/30/04).

Regarding claims 6, 8, 10, 12, 14-16, 24-26 and 29, these claims are anticipated by figure 4 and by Lehmann's teaching that profile sections can be made instead as peg sections (p. 3, Translation, NPL, 8/30/04).

Regarding claims 30, 31, 55, 56, these claims are anticipated by figure 1, wherein figure 1 is used to show that the various mounting pin embodiments are implicitly connected to screens with a support and sub frame (fig. 1, with screens 2 and support frame ribs 12 wherein sub frame structure is regarded as inherent).

Regarding claims 7 and 13, it is implicit from the substantially similar structures (fig. 3) that the insertion force is as claimed. Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of

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functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the mounting pin is certainly capable of being bolted to the support frame and of being inserted and removed with the claimed forces.

Regarding claims 18, 21, 23, Lehmann teaches that the mounting pin can be made of the abrasion resistant material plastic (See Partial Translation, p. 1).

Claims 6, 7, 9-13, 15, 18, 21, 23-27, 29-31, 55-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt et al. ("Schmidt")(US 4,871,288).

Regarding claims 6, 9-12, 15-16, 24-27, 29, these claims are anticipated (Fig. 1-4, pin comprising head 12 and cylindrical stem 11; col. 1, ln. 25 et seq. describing plastic bolts 10 being inserted into screen frame 6 to secure screen elements 1).

Regarding claims 30, 31, 55, 56, Schmidt (Fig. 3, 4) teaches a support frame (6) with a mounting rib (5), wherein these figures are regarded as exemplary mounting pin embodiments that show such that a plurality of pins and mounting structures are inherent.

Regarding claims 7 and 13, it is implicit from the substantially similar structures that the insertion force is as claimed. Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the mounting pin is certainly capable of being bolted to the support frame and of being inserted and removed with the claimed forces.

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Regarding claims 18, 21, 23, Schmidt teaches that the mounting pin can be made of the abrasion resistant material plastic (col. 1, ln. 25 et seq.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8, 10, 12-16, 18, 21, 23-27, 29-31 and 55-56 are rejected under 35 U.S.C. 102(b) as being anticipated Lehmann et al. ("Lehmann")(EP 167999 A2).

Lehmann as set forth above teaches all that is claimed. However, under an alternative interpretation, Lehmann may not teach the generally cylindrical mounting pin. Lehmann, however, expressly teaches that the profile structures can be made as pegs that are fashioned as bolt forming posts (See Partial Translation, p. 3). These pegs/posts can clearly be regarded as generally cylindrical. Moreover, Lehmann's teaching shows that the formation of a mounting pin as a cylinder or in profile are well-known equivalents in the screen arts. See MPEP 2144.06. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Lehmann with generally cylindrical mounting pins as they are well known equivalents in the art.

Claims 17, 19-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann or Schmidt in view of what is well known in the art.

Lehmann or Schmidt as set forth above teach all that is claimed except for expressly teaching the mounting pin structure made of various materials, such as composite, ceramic and steel. The mere choice of materials, however, is not seen as a basis for patentability. That is, the use of the different materials is well known in the art and can be regarded as a mere design choice that is obvious. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Lehmann or Schmidt as is well known in the art.

Response to Arguments

Applicant's arguments that the prior art fails to teach the amended claim feature of a generally cylindrical mounting pin are unpersuasive. In particular, the prior art teaches portions of the mounting pin being cylindrical (see e.g. Schmidt, stem and portions of the head seen in profile) or to convert the profile section into a generally cylindrical pin (see Lehmann's teaching of peg conversion cited above). Here, Applicant is respectfully reminded that claims are interpreted as broadly as reason allows and that is not unreasonable to regard the prior art pins as *generally* cylindrical based on the above cited teachings. Therefore, the claims stand rejected.

Allowable Subject Matter

Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Joseph C Rodriguez** whose telephone number is **571-272-6942** (M-F, 9 am – 6 pm, EST).

The **Official** fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

The examiner's **UNOFFICIAL Personal fax number** is **571-273-6942**.

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only.

For more information about the PAIR system, see

<http://pair-direct.uspto.gov>

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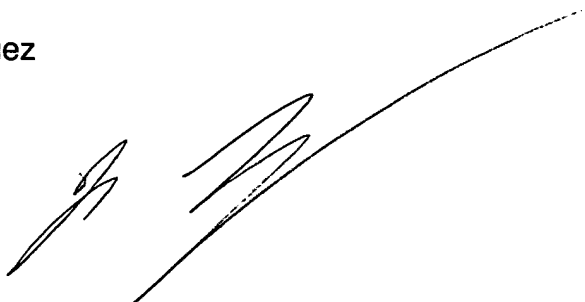
Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at **866-217-9197** (Toll Free).

Alternatively, inquiries of a general nature or relating to the status of this application or proceeding can also be directed to the **Receptionist** whose telephone number is **571-272-6584** or to the Supervisory Examiner, Patrick Mackey, **571-272-6916**.

Signed by Examiner Joseph Rodriguez

Jcr

October 7, 2006

A handwritten signature in black ink, appearing to be 'Jcr', is written over a long, thin horizontal line that extends across the right side of the page.